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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,221	07/01/2003	Rodger H. Rast	DisplayRAST070103	5750

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EXAMINER

PHAM, HAI CHI

ART UNIT	PAPER NUMBER
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2861

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,221

Applicant(s)

RAST, RODGER H.

Examiner

Hai C. Pham

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-9 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 3 is objected to because of the following informalities:
 - Line 4, the following limitation “said first and second electrodes” should read -- said first electrode and said electrode array--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1:

- The following limitation “A data storage media ... comprising: ... and a *background electrode contact*” appears to be misleading since the background electrode contact is not an integral part of the data storage media, but the background electrode contact (denoted by the reference number 38 as shown in Fig. 3) is provided on the external programming device to allow full electrical connection between the external programming device and the first electrode of the data storage media. It is suggested to rewrite the limitation “and a

background electrode contact coupled to said first electrode and configured for receiving a bias voltage upon physical contact with an external programming device” as follows --wherein ~~and~~ a background electrode contact of an external programming device is coupled to said first electrode and configured for receiving a bias voltage upon physical contact with an said external programming device--.

Claim 4:

- Claim 4 recites “a third electrode region”, which appears to be ambiguous. In fact, it appears that the third electrode is no other than the “electrode array” of the external programming device that has been added to the original claim 1 by amendment. It is suggested to cancel claim 4 to avoid duplication of the same limitation.

Claims 2-3 are dependent from claim 1 above, and are therefore indefinite.

Appropriate correction is required.

Allowable Subject Matter

4. Claims 5-9 are allowed.
5. Claim 1 would be allowable if rewritten or amended as suggested to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
6. Claims 2-3 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The following is an examiner's statement of reasons for allowance: claim 5 is patentable over the prior art patents and printed publications because of the specific configuration of the apparatus for printing rewritable labels on the surface of the data storage media, the apparatus comprising a base member configured for physically engaging the exterior of a data storage media with label regions containing electrically programmable ink, at least one contact on said base member configured for making contact with a first electrode within the media, an electrode array retained by said base member in close proximity to the surface of said electrically programmable ink, a means for instilling relative motion between said electrode array and the media retained by said base, wherein said electrode array passes over areas of the electrically programmable ink whose optical state is to be set in printing a rewritable label on the media, and a control circuit electrically coupled to said electrode array and said at least one contact for establishing electrical connection with said first electrode, wherein said control circuit is configured to modulate the voltages between the first electrode and the elements of the electrode array in response to the relative motion between said electrode array and said media, for selectively writing a label on said media in response to label data received by said control circuit". The combined limitations as currently claimed are not taught by the prior art of record alone or in combination.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

8. Applicant's arguments, see amendment page 7, lines 5-11, page 9 lines 4-14, and page 10, lines 10-23, filed 12/28/04, with respect to claims 1 and 5 have been fully considered and are persuasive. The rejection of 1-9 under 35 U.S.C. 102(e) has been withdrawn.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai C. Pham whose telephone number is (571) 272-2260. The examiner can normally be reached on M-F 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vip Patel can be reached on (571) 272-2458. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2861

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HAI PHAM
PRIMARY EXAMINER

May 23, 2006